

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

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In re:	:	
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THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-3283 (LTS)
	:	
THE COMMONWEALTH OF PUERTO RICO <i>et al.</i> ,	:	(Jointly Administered)
	:	
Debtors. <sup>1</sup>	:	
	X	
	:	
In re:	:	
	:	
THE FINANCIAL OVERSIGHT AND	:	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	:	Title III
	:	
as representative of	:	Case No. 17-BK-4780 (LTS)
	:	
PUERTO RICO ELECTRIC POWER AUTHORITY,	:	<b>This filing relates only to</b>
	:	<b>Case No. 17-BK-4780 (LTS)</b>
	:	
Debtor.	:	
	X	

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<sup>1</sup> The Debtors in these Title III cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5233 (LTS)) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

**URGENT MOTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO  
SET BRIEFING SCHEDULE AND HEARING ON URGENT OBJECTION TO  
MAGISTRATE JUDGE’S SEPTEMBER 5, 2020 ORDER ON MOTION TO COMPEL  
DISCOVERY IN CONNECTION WITH MOTION TO TERMINATE BANKRUPTCY  
RULE 9019 MOTION**

To the Honorable United States District Judge Laura Taylor Swain:

The Official Committee of Unsecured Creditors (the “Committee”)<sup>2</sup> hereby files this urgent motion (the “Urgent Motion”) requesting entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), setting a briefing schedule and hearing on the *Official Committee of Unsecured Creditors’ Urgent Objection to Magistrate Judge’s September 5, 2020 Order on Motion to Compel Discovery in Connection with Motion to Terminate Bankruptcy Rule 9019 Motion* (the “Objection”).<sup>3</sup> In support of this Urgent Motion, the Committee respectfully represents as follows:

**JURISDICTION AND VENUE**

1. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to section 306(a) of PROMESA.<sup>4</sup>
2. Venue is proper pursuant to section 307(a) of PROMESA.
3. The statutory bases for the relief requested herein are section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9006, made applicable to these Title III cases by sections 301(a) and 310 of PROMESA, Rule 9013-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Puerto Rico (the “Local Rules”), and the *Thirteenth Amended Notice, Case Management and Administrative Procedures* [Docket No. 13512-1] (the “Case Management Procedures”).

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<sup>2</sup> The Committee is the official committee of unsecured creditors for all Title III Debtors, other than PBA and COFINA.

<sup>3</sup> All capitalized terms used but not defined herein have the meanings ascribed to such terms in the Objection.

<sup>4</sup> References to PROMESA are references to 48 U.S.C. §§ 2101 *et. seq.*

**RELIEF REQUESTED**

4. By this Urgent Motion, the Committee respectfully requests entry of the Proposed Order: (a) setting the deadline to respond to the Objection for **September 14, 2020 at 4:00 p.m. AST**; (b) setting the Committee's deadline to reply to any response for **September 15, 2020 at 4:00 p.m. AST**; and (c) setting the hearing (if any) on the Objection for the omnibus hearing on September 16, 2020. As detailed below, the Committee believes that the proposed expedited schedule is appropriate under the circumstances.

**BASIS FOR RELIEF REQUESTED**

5. Bankruptcy Rule 9006(c)(1) provides that “the court for cause shown may in its discretion with or without motion or notice order the period [for notice] reduced.” Further, Local Rule 9013-1(a) allows a party to request that a court “consider a motion on an expedited basis.” Cause exists to schedule the Objection on an expedited basis.

6. Expedited consideration of the Objection is appropriate under the circumstances. The Committee filed the *Motion of Official Committee of Unsecured Creditors to Terminate Bankruptcy Rule 9019 Motion* [Case No. 17-BK-4780-LTS, Dkt. No. 2144] (the “Motion to Dismiss”) on August 18, 2020. The following day, on August 19, 2020, the Committee served certain discovery requests, seeking a narrow category of documents and deposition testimony (the “Discovery Requests”). After nine days of email correspondence regarding the Discovery requests between the Committee and the Government Parties, including a telephonic meet and confer on August 24, 2020, the Government Parties confirmed that they would not be responding to any of the Discovery Requests on August 27, 2020. The Committee filed the Motion to Compel on August 28, 2020, the following day. After the completion of expedited briefing on

the Motion to Compel, on Saturday, September 5, 2020, the Magistrate Judge issued the September 5 Order, denying the Motion to Compel in full.

7. The proposed briefing schedule for the Objection is reasonable under the circumstances, given the narrowness of the Objection and the upcoming hearing on the Motion to Dismiss. The hearing on the Motion to Dismiss has been set for the omnibus hearing on September 16, 2020 on regular notice in accordance with the Court's case management procedures. As a practical matter, it would be inefficient for the Court to consider the Motion to Dismiss at the September 16 hearing without first resolving the issue of whether the Committee is entitled to discovery in support of that motion. Moreover, the issues raised by the Objection are straightforward and have already been full briefed by the parties once before.

8. Accordingly, the Committee proposes that the Objection be heard together with the Motion to Dismiss at the September 16 hearing. The Committee further proposes responses to the Objection be filed by September 14, 2020 at 4:00 p.m. AST and that the Committee's reply in support of the Objection be filed by September 15, 2020 at 4:00 p.m. AST. This will allow the court to consider the Objection at the same time as it considers the Motion to Dismiss.

9. Pursuant to Section I.H. of the Case Management Procedures, undersigned counsel certifies that it has engaged in reasonable, good-faith communications with counsel to the Government Parties regarding the relief requested herein. The Government Parties have said that they do not consent to the Committee's proposed briefing schedule. Moreover, in accordance with Local Bankruptcy Rule 9013-1(a)(2), undersigned counsel certifies that counsel has carefully examined the matter and concluded that there is a true need for an urgent hearing, and that the movant has not created the urgency through lack of due diligence on its part. The

undersigned further certifies that movant made a bona fide and good faith effort to resolve the matter without a hearing.

**NOTICE**

10. Notice of this Urgent Motion has been provided to the following entities, or their counsel, if known: (i) the U.S. Trustee; (ii) the Office of the United State Attorney for the District of Puerto Rico; (iii) the Oversight Board; (iv) the Puerto Rico Fiscal Agency and Financial Advisory Authority; (v) the Official Committee of Retirees; (vi) the insurers of the bonds issued or guaranteed by the Debtors; (vii) counsel to certain ad hoc groups of holders of bonds issued or guaranteed by the Debtors; and (viii) all parties that have filed a notice of appearance in these Title III cases.

**NO PRIOR REQUEST**

11. No previous request for the relief requested herein has been made to this or any other court.

*[Remainder of page intentionally left blank.]*

WHEREFORE, the Committee respectfully requests that the Court enter the proposed order attached hereto as **Exhibit A** expediting consideration of the Objection and granting such other relief as the Court deems just and proper.

Dated: September 10, 2020

By: /s/ Luc A. Despins

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